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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
|-----------------|-------------|----------------------|---------------------|------------------|

10/538,019

06/07/2005

Steve Townsend

42242

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38505

7590

03/25/2009

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EXAMINER

OMGBA, ESSAMA

ART UNIT

PAPER NUMBER

3726

MAIL DATE

DELIVERY MODE

03/25/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--|--|
| Office Action Summary | Application No. 10/538,019 | Applicant(s) TOWNSEND ET AL. | |
| | Examiner Essama Omgba | Art Unit 3726 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 11-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 11 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over James et al. (US Patent 4,743,154) in view of Gatteschi (US Patent 6,892,592), Harding et al. (US Patent 6,701,615), Carew (US Patent 4,807,991) and Ouellette (US Patent 5,096,369).

James et al. discloses a method of pallet repair wherein pallets are inspected and if needed transported to repair stations where the pallets are repaired (col. 1, lines 6-12 and 29-40, col. 2, lines 65-68 and col. 3, lines 121). James et al. does not disclose the inspection being done by using a scanning device to create a map of a pallet and creating a recipe of repair operation from the map. However it is known to use an automated system to inspect pallets as attested by Gatteschi, see column 1, lines 60-67 and column 2, lines 1-4. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have automated the method of James et al., in light of the teachings of Gatteschi, in order to efficiently check the structural integrity of pallets. Further Harding et al. teaches generating a repair profile of an article based on inspection data, see column 4, lines 63-67, column 5, lines 1-10 and 25-32, column 6, lines 44-55 and column 8, lines 35-51. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used a the inspection data to generate a repair profile in the method of James et al./Gatteschi, in

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light of the teachings of Harding et al., in order to repair pallets more efficiently.

Although Harding et al. does not specifically disclose the inspection data being in the form of a map, however it is known to inspect and repair a structural defect on a surface of a part by scanning the surface of the object to create a map of the object as attested by Carew, see column 1, lines 53-68, column 2, lines 1-12 and column 5, lines 36-51.

Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have used the inspection data of James et al./Gatteschi/Harding et al. to create a map of the pallet, in light of the teachings of Carew, in order to provide an enhanced display of the defects. Although James et al./Gatteschi/Harding et al./Carew does not specifically disclose gripping the pallets and moving the gripped pallets to one or more stations, however it is known to move pallets to be repaired by gripping the pallets and moving them to the different repair stations as attested by Ouellette, see column 3, lines 9-12. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made, to have moved the pallets in the method of James et al./Gatteschi/Harding et al./Carew as taught by Ouellette, as is known in the art.

Allowable Subject Matter

3. Claims 12 and 13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

4. Applicant's arguments with respect to claim 11 have been considered but are moot in view of the new ground(s) of rejection.

In response to Applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F 9-6:30, 1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bryant can be reached on (571) 272-4526. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Essama Omgba/
Primary Examiner, Art Unit 3726

eo
March 21, 2009